



EXHIBIT 5
DATE 1/24/2011
HB

The 2011 Legislators' Guide to Medical Cannabis

A Comprehensive Guide to Understanding Medical Cannabis in the State of Montana

House Bill 43-An Act Clarifying Employer Rights Related To Workers' Compensation, Drug Testing, and Disciplinary Action Involving an Employee's Medical Use of Marijuana

This document is provided to the members of the House Human Services Committee. Excerpts from *The Legislators' Guide to Medical Cannabis* providing recommendations and rationale pertaining to HB43 are provided herein.

Issue: Levels of impairment that could affect job performance

THC can be in someone's system for up to 25 days after utilization of medicinal cannabis while any effect will dissipate within 3-6 hours. There are now some strains of cannabis available with minimal THC, offering little or no impairment for some patients even from onset of use. The affect of some strains as outlined in the support material contained in the full version of *The 2011 Legislators' Guide to Medical Cannabis* show very low THC content yet traces remain in the person's system. This is a national issue as well and requires a careful scientific approach to be fair and accurate.

As with other pharmaceutical products, research to help determine how use of any medicinal product affects the ability to perform one's job responsibilities must be established by individual companies and organization.

Recommendation:

Administrative

1. Require the Montana State Crime Lab to work with industry specialists to establish an accurate testing protocol and outcome analysis regarding levels of impairment specific to medical cannabis including varying tests for different strains of medicinal product.

Section 7. Section 50-46-205, MCA Limitations of the Medical Marijuana Act

(3) Nothing in this chapter may be construed to:

(a) prohibit an employer from including in any contract a provision prohibiting the medical use of marijuana on the job, whereby such use may impact job performance; or

(b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102 based on:

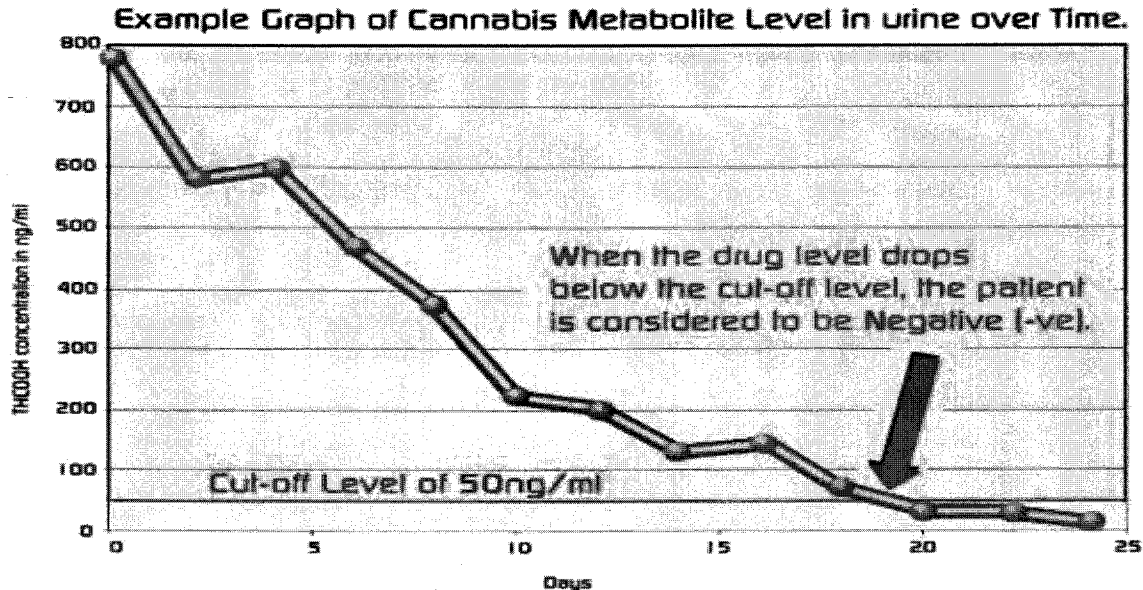
(i) an employee's medical use of marijuana or any other recommended or prescribed medication by a physician in the course and scope of employment where their performance has been impacted

(ii) actions by an employee who was under the influence of medical marijuana in the course and scope of employment.

It is recommended that this section be modified as outlined above in bold. In the course of trying to clarify the existing law, the current language singles out those employees who utilize medical cannabis and are discharged solely for being medical cannabis patients.

Dispelling Misinformation & Rumor

An individual who has used medical marijuana is significantly impaired



Impairment caused by any substance is a serious issue in Montana and must be addressed legislatively. Currently there is no scientifically acceptable medical cannabis impairment test to determine whether a patient is impaired. Current testing methodology can show that medical cannabis is in the individual's system, but that does not indicate if they are impaired. The chart above shows how medical cannabis may indicate a positive test result based on available testing methods. It is estimated that the physical effect of smoking medical cannabis may be minimal two-to-three (2-3) hours (as much as 6 hours) following usage but may appear in current testing protocols for as long as 30 days following medication. The effect of using medical cannabis is unlike the effect of alcohol consumption. Different cannabis strains possess unique characteristics which cause varying reactions in patients.

An employee who tests positive for having consumed medical cannabis may actually have consumed it at some time in the past month, but is not necessarily impaired nor might their work performance be. Currently no impairment test exists to accurately measure the effects of medical cannabis.

Employers should establish performance standards for all employees and routinely provide performance evaluation for all employees regardless of whether they may be a medical cannabis patient, on pharmaceuticals, or simply to see if they can perform their job to the standards set.

The complete *2011 Legislators' Guide to Medical Cannabis, A Comprehensive Guide to Medical Cannabis in the State of Montana* is available by visiting www.solutions4montana.org.